

1 business and that has been the extent of any discussions
2 that way.

3 Q Maybe I'm not quite understanding the answer
4 to my question then. If there have not been discussions
5 concerning the possibility of you carrying that show
6 that was described earlier, what has occurred?

7 MR. FRIEDMAN: Asked and answered, Your Honor.
8 He answered the question.

9 JUDGE LUTON: What was the answer? No, there
10 haven't been discussions concerning that but there have
11 discussions concerning other things? What was the
12 answer?

13 MR. FRIEDMAN: That in his mind he's thought
14 that he wants the range of opportunities and this is an
15 opportunity that he might at some point consider.

16 BY MR. ALPERT:

17 Q And to whom did you communicate this thought
18 that this might be one of the range of possibilities you
19 might consider in the future? You've communicated that
20 fact to your father.

21 A I don't recall the specific discussion or a
22 specific conversation that you're asking about.

23 JUDGE LUTON: He's just asking whether you
24 communicated that particular thought to your father?

25 THE WITNESS: I'm sure I have on many

1 occasions communicated the fact that the programming
2 decisions are going to be totally mine and I'm sure if
3 there is such a program some time in the future my dad
4 would be happy to see it on as many stations as possible
5 across the country.

6 JUDGE LUTON: I don't want to strike your
7 answers but I would ask you to just limit your response
8 to the question that's asked.

9 THE WITNESS: Yes, sir.

10 JUDGE LUTON: Let's take a 15 minute recess.

11 (Whereupon, off the record at 11:29 for a 15
12 minute recess.)

13 JUDGE LUTON: Continue with the cross
14 examination.

15 MR. ALPERT: Yes, sir.

16 BY MR. ALPERT:

17 Q I believe you testified earlier, Mr. Bott,
18 that Bott Broadcasting is your only employment right
19 now. Is that correct?

20 A Yes, that's correct.

21 Q To what extent has Bott Broadcasting aided you
22 in this particular application?

23 A None.

24 Q They have not provided any backup services,
25 any monies, any costs whatsoever either directly or from

1 any other family member?

2 A No, none whatsoever other than to give me the
3 opportunity to gain some experience.

4 Q I believe you testified during deposition that
5 there is also no third party financing involved
6 whatsoever. Is that correct?

7 A That's correct.

8 Q So everything that will occur, all costs will
9 be met for the prosecution, construction and initial
10 operation of this station through your own personal
11 liquid assets?

12 A My own personal resources. Yes.

13 Q And those assets are liquid.

14 JUDGE LUTON: I will sustain an objection if
15 one is made.

16 MR. FRIEDMAN: Object, Your Honor.

17 JUDGE LUTON: Sustained.

18 BY MR. ALPERT:

19 Q Are you familiar with what liquid assets are?

20 MR. FRIEDMAN: Objection, Your Honor.

21 JUDGE LUTON: Sustained.

22 BY MR. ALPERT:

23 Q You testified earlier that initially your
24 father and now you and your father collectively retained
25 the rights for Bott Broadcasting to reject programs if

1 they disagreed with either your father's or your own
2 religious beliefs. Is that correct?

3 A No, sir. I didn't say anything of the kind.

4 JUDGE LUTON: That's fine. Stop.

5 BY MR. ALPERT:

6 Q Maybe I misheard you. Do you have any ties
7 whatsoever to Blackfoot, Idaho currently?

8 A What do you mean by ties?

9 Q Family, friends, property, anything?

10 A I visited there, met some people, community
11 leaders and so forth.

12 Q But nothing that ties you down there or
13 anything of that sort right now?

14 A I have no family or friends there other than
15 the people I've met when I visited.

16 Q Okay. Assuming you get this grant do you have
17 any plans right now to only own this property for a
18 finite period of time?

19 A No, I have no plans to sell it if that's what
20 you mean.

21 Q That's what I meant. And in your testimony
22 you say that you intend to establish a domicile in
23 Blackfoot. Is that correct?

24 A Yes.

25 Q Do you intend to maintain any other residences

1 anywhere else in the country at the time that you have
2 your domicile in Blackfoot?

3 A No, I intend to live in Blackfoot.

4 Q No other residences anywhere else?

5 A No.

6 Q And it's your intention to, for all intents
7 and purposes, for the foreseeable future to live there
8 forever?

9 MR. FRIEDMAN: Objection, Your Honor. Forever
10 is irrelevant.

11 MR. ALPERT: Your Honor, I disagree because
12 the Commission's policy is that integration proposals
13 should be on a permanent basis. Permanent is equated, I
14 believe, to forever.

15 JUDGE LUTON: I think an indefinite period of
16 time would be enough. I don't think he should commit
17 himself to forever living in any one place. If you want
18 to ask the witness whether he intends to stay in
19 Blackfoot for an indefinite time, that's okay.

20 BY MR. ALPERT:

21 Q Do you intend to live in Blackfoot for an
22 indefinite period of time?

23 A Yes.

24 Q Can you foresee any circumstances under which
25 you would leave? For instance, buying another broadcast

1 property or expanding your own personal holdings or
2 anything of that sort?

3 MR. FRIEDMAN: Object, Your Honor. We've got
4 a compound question.

5 JUDGE LUTON: It calls for speculation as
6 well. Sustained.

7 MR. ALPERT: One moment, Your Honor.

8 No further questions, Your Honor.

9 JUDGE LUTON: All right. Ferguson.

10 MR. MONAHAN: Thank you, Your Honor. Your
11 Honor, what time do you normally break for lunch?

12 JUDGE LUTON: No set time.

13 MR. MONAHAN: No set time. Okay. Fine.
14 Thank you.

15 BY MR. MONAHAN:

16 Q My name is Dominic Monahan. I'm counsel for
17 Clare Marie Ferguson.

18 Mr. Bott, you applied for the Blackfoot
19 facility in July of 1985.

20 A Yes, sir.

21 Q And you applied for a facility in central
22 California in 1985.

23 A Central Valley.

24 Q Central Valley, excuse me.

25 A Yes, sir.

1 Q Did you apply for any other radio facilities
2 in 1985?

3 A Not that I recall.

4 Q Did any members of your family apply for any
5 other radio facilities in 1985?

6 A I believe my brother-in-law and sister did. I
7 believe that's all. And Bott Communications applied for
8 one or two. That was during the Universal Window.

9 Q Do you recall where Bott Communications
10 applied for other facilities?

11 A Could I refer to this hearing exhibit?

12 Q Sure.

13 A That way I don't have to rely on my memory.

14 JUDGE LUTON: Well, we'd rather that you
15 relied on your memory.

16 THE WITNESS: What were you asking now? Where
17 else Bott Communications had applied for?

18 BY MR. ALPERT:

19 Q Your testimony was that Bott Communications
20 had applied for some facilities but they were
21 unspecified and I'm asking which ones they were if you
22 can recollect?

23 A I believe Shawnee, Oklahoma was one. Elk
24 City, Oklahoma was one but that was untimely tendered I
25 believe and returned. It wasn't proceeded with.

1 Q Was that Bott Communications?

2 A That, I believe, was Bott Communications.

3 Q And you own 20 percent of Bott Communications.

4 Is that correct?

5 A Yes, I do.

6 Q Okay.

7 A Goodland, Kansas was filed for about that same
8 time but I don't know that it was July. It may have
9 been a different month.

10 Q Did you apply in Ukaya, California?

11 A Yes. Bott Communications I do believe applied
12 in Ukaya, California.

13 Q Was that about the same period of time?

14 A I believe so.

15 Q Did you apply in --

16 A When you say "you" do you mean Bott
17 Communications?

18 Q Correct. Did Bott Communications apply for
19 Hastings, Nebraska?

20 A Yes.

21 Q That was an FM station, too?

22 A Yes.

23 Q And when did that occur?

24 A That was probably about that same time.

25 Q What are the status of those four applications

1 of Bott Communications?

2 A Okay, well, let's take them one at a time.
3 Hastings, Nebraska is I believe under appeal. The Elk
4 City, Oklahoma was returned as untimely filed or
5 something like that. Shawnee, Oklahoma I don't believe
6 has been designated yet so it's still pending or
7 waiting. Goodland, Kansas there is a C.F. that has been
8 granted to Bott Communications for that. Ukaya,
9 California we withdrew as a result of a settlement. Did
10 I miss any?

11 Q Did you have any interest in an application
12 for a new FM station in Oklahoma City?

13 A There is a not for profit corporation called I
14 believe Community Family Broadcasting Inc. that I'm a
15 director of that had applied for an educational facility
16 there in Oklahoma City but there was a technical error
17 and that was returned and there's been no further
18 progress on that.

19 Q Was that filed in 1985?

20 A No, I don't think so. I think that was 1986.

21 Q Do you have any interest in an application for
22 a new FM in Woodlake, California?

23 A Bott Communications owns 80 percent of AJB
24 Corporation which is the applicant or the permittee or
25 whatever for -- did you say Woodlake?

1 Q Yes.

2 A I'm sorry. That's SEB Corporation and that
3 has been withdrawn. I believe SEB Corporation did not
4 file the \$6,000 hearing fee or something so that's in
5 the process of being withdrawn.

6 Q Did you have an interest in the Woodlake
7 application?

8 A Yes, I did to the extent that I was a 20
9 percent owner of Bott Communications which owned 80
10 percent of SEB. So if you add that up my interest there
11 was 16 percent.

12 Q According to my count then the Shawnee
13 application is pending, the Hastings application is on
14 appeal and you have an FM permit for Goodland, Kansas.

15 A Bott Communications does, yes.

16 Q Yes. Will you have any continuing role with
17 those applications?

18 A You mean should I be awarded the Blackfoot
19 grant?

20 Q Well, do you have any continuing role with
21 those applications now? Let me phrase the question that
22 way.

23 A Well, the majority owner is Bott Broadcasting
24 Company and I'm an employee of Bott Broadcasting Company
25 and I would manage the managers in essence that are

1 delegated to manage the stations at the present.

2 Q Are those class A facilities or class C
3 facilities?

4 A I'd have to take them one at a time.

5 Q Let's take them one at a time.

6 A Okay. Hastings, Nebraska is a class C.
7 Shawnee, Oklahoma is a class C. I believe Woodlake was
8 a class B. Did you mention Mt. Bullion?

9 Q I have not mentioned Mt. Bullion.

10 A That is also a class B. Ukaya was a class B
11 or C, I'm not sure. I think B.

12 Q And Goodland?

13 A C.

14 Q And Elk City was a class C?

15 A I believe that was also a C.

16 Q Mt. Bullion, what's the name of the applicant
17 for Mt. Bullion?

18 A That's AJB Broadcasting Inc.

19 Q Which in turn is owned by whom?

20 A It's owned 80 percent by Bott Communications
21 and so that gives me a 16 percent interest in Mt.
22 Bullion.

23 Q That would be an attributable interest after
24 you've factored up percentage. Is that correct?

25 A Yes, 20 percent of 80 percent.

1 Q But for the Oklahoma City application were
2 most of these applications filed about the same time in
3 1985?

4 A Well, there was the Universal Window. I think
5 a number of them had the Universal Window cut off date.
6 There was a flurry of activity at that time. I think a
7 number of them were Universal Window and had the same
8 cut off date and there may have been some others that
9 were later or earlier.

10 Q I believe we're talking here of seven
11 applications in addition to Blackfoot and Central Valley
12 which would make nine. In the ownership of these
13 applications, were there any owners ultimately other
14 than members of the Bott family?

15 A I don't believe so. Our family is involved in
16 broadcasting.

17 Q By the Bott family I mean yourself, your
18 mother and father.

19 A Brother-in-law.

20 Q Brother-in-law. How many members are there in
21 the Bott family? Maybe we should clear that up.

22 A Starting with my mother and father and then
23 there are four children of which I'm one. My older
24 sister is married and my younger brother is married and
25 my younger sister is married and I'm single.

1 Q Where is Central Valley, California?

2 A Excuse me. The campus station I worked at, of
3 course, was not part of the family.

4 Q Right.

5 A Central Valley is the northern end of the
6 Sacramento Valley between Lake Shasta and Reading.

7 Q How far is it to Reading?

8 A Three miles or so.

9 Q Do you know what size market the Reading
10 market is?

11 A I would estimate it to be 90 to 100,000.

12 Q Do you know if it's a ranked market in the
13 sense in the broadcast industry they rank them by size?

14 A It is, but it's so far down there that I don't
15 recall the exact number. It's a pretty small market.

16 Q How large a market is Independence, Missouri
17 in terms of national ranking?

18 A They would rank Independence together with
19 Kansas City, the Kansas City metropolitan area. That's
20 about 28th market, something like that.

21 Q How about Oklahoma City? What rank is that?

22 A I believe that's around 50. Again it depends
23 on whether you're talking about the total survey area or
24 the metro area.

25 Q How about Ft. Wayne, Indiana as far as ranking

1 goes?

2 A I think you're talking about 96 or 99 or 100,
3 right around that range.

4 Q How about the Collierville-Memphis market? Do
5 you know what rank that is?

6 A That's approximately the same size as Oklahoma
7 City, a little bigger so I'd say maybe around 40th or
8 45th.

9 Q Bott Communications Inc. has a station in
10 Clayton, Missouri and that's near St. Louis I believe
11 you testified.

12 A Yes.

13 Q How large is the St. Louis market?

14 A I believe that's about 16th or 18th if you're
15 talking about ranking in the top 50 markets.

16 Q Right.

17 A 16th or 18th, somewhere around that
18 neighborhood.

19 Q And Mt. Bullion is where Bott Communications
20 holds an FM permit? Mt. Bullion, California.

21 A AJB Inc.

22 Q I'm sorry. AJB Inc.

23 A Yes.

24 Q And Mt. Bullion is near which market?

25 A It's near Merced.

1 Q Do you know how large the Merced market is?

2 A No, I don't. It's kind of a rural market. It
3 would include Modesto, Merced, Medina, agricultural
4 area.

5 Q Are you familiar with the Duncan Reports on
6 radio?

7 A Yes.

8 Q Would you be surprised if Mr. Duncan ranked
9 that the 123rd market in the country?

10 A Which one?

11 Q The Modesto-Merced.

12 A It's bigger than I thought it was. This
13 particular facility is licensed to Mt. Bullion. I don't
14 know that it reaches the same areas exactly what he's
15 talking about.

16 Q How far is Mt. Bullion from Merced or Modesto?

17 A I believe it's closest to Merced and it's
18 probably about 10 or 15 miles away.

19 Q But that's a class B facility?

20 A Yes.

21 Q Provide service into Modesto?

22 A I hope it will. It should. You asked how
23 close it was to Merced and then you asked if it would
24 provide service into Modesto.

25 Q Let's clear that up. I don't want to leave

1 that. Would it provide service into Merced?

2 A Yes.

3 Q And in proximity it's located nearer to Merced
4 than to Modesto?

5 A Yes.

6 Q Guesstimate in milage?

7 A To Modesto?

8 Q To Modesto and Merced.

9 A To Merced is about 10 or 15 miles. To Modesto
10 it's further than that. I'd have to look at a map to be
11 sure. 35 miles.

12 Q How do you come to learn about the
13 opportunities for applying for new FM in Blackfoot,
14 Idaho?

15 A Well, through my work I have a lot of material
16 that crosses my desk and back when the Universal Window
17 was coming open a lot of engineers, attorneys and
18 services like that began sending out notices to
19 broadcast stations. They had a mailing list.
20 Apparently I was on it or our company was. It listed
21 facilities that would be available on frequencies that
22 would be available to file on such and such a date.

23 Q You got a lot of mail those days?

24 A Excuse me?

25 Q You got a lot of mail on those days?

1 A Quite a bit. There was an awful lot of
2 activity at that time.

3 Q Did the Bott family sit down to discuss these
4 mailers or flyers they received regarding these?

5 A We didn't sit down specifically to discuss
6 that, but I'm sure it was a matter of family discussion
7 because we're all in the broadcast business. This is
8 happening in the industry.

9 Q Did you have any role in the decision of ECI
10 to apply for the other eight communities that it filed
11 applications for?

12 A Was it eight?

13 Q I think it's eight.

14 A That was part of my job in working for Bott
15 Broadcasting Company to take care of those things. I
16 suppose maybe that's why I was on those mailing lists.
17 I don't know.

18 Q Of the market mix that was available to you,
19 how did you come to select Blackfoot and Central Valley
20 say over Woodlake. I mean you individually applied over
21 the decision of ECI to participate or file applications
22 for the other communities.

23 A Well, I didn't want to file someplace where
24 the company had already filed. How I chose Central
25 Valley and Woodlake is I looked over the listing that

1 was a part of the Central Valley and Blackfoot. I
2 looked over the listing that came out listing the
3 Universal Window allocations and I determined that
4 Central Valley, the Reading metropolitan area or
5 whatever would be economically feasible as would
6 Blackfoot. I looked at the coverage of the proposed
7 facilities. I looked at the population. I looked at
8 the competitive situation, the number of stations that
9 were there and I determined that each of those would be
10 economically viable in terms of making a successful
11 business venture of it and being able to serve those
12 communities.

13 Q Did you visit Blackfoot at the time that you
14 were making this decision to file?

15 A I didn't visit Blackfoot until later. I did
16 some investigation and did some phone calling and talked
17 with Chamber of Commerce and different things like that
18 and looked at it as a broadcasting market and looked at
19 the competitive situation. I didn't visit there at the
20 time I filed.

21 Q When did you visit Blackfoot?

22 A The first time I visited Blackfoot was this
23 past September, '87 to basically confirm things that I'd
24 been checking on on the telephone and so forth. I
25 visited in September. I'm answering too much.

1 Q How long were you in Blackfoot at the time?

2 A Two days.

3 Q Have you been back there since?

4 A No, I have not.

5 Q So you've had one visit to Blackfoot, Idaho?

6 A Yes, I have.

7 Q I believe your testimony is you resigned your
8 position of employment with Bott Broadcasting Inc. Do
9 you intend to resign as either a vice president or a
10 director of Bott Broadcasting Inc.?

11 A Well, my intention is to quit my job there so
12 I can go move and live in Blackfoot. I don't have an
13 intention specifically to cease being an officer or
14 director; however, they may choose to elect somebody to
15 replace me but that would be a decision of the Board of
16 Directors. They haven't made a decision on that one way
17 or the other.

18 Q That would be your mom and dad overruling you,
19 wouldn't it?

20 A They've done that on occasion.

21 Q Parental prerogative. Have you made
22 arrangements for a home or apartment in Blackfoot as of
23 date?

24 A Well, yes, to a certain extent. That's one of
25 the reasons I went out to visit because I wanted to see

1 the homes that the real estate agent had been picking
2 out for me. I saw two or three of them with him and he
3 was supposed to get some more possibilities, but I'm
4 working on that.

5 Q To purchase a home there?

6 A Yes, it would premature to buy one before this
7 case is settled but I have been investigating that.

8 Q I was wondering whether the decision was to
9 purchase a home or to lease an apartment.

10 A Well, I haven't made a firm decision whether
11 I'd buy or rent, but there's not much available in
12 Blackfoot to rent so it appears that the best thing
13 would be to buy something. The housing is fairly
14 reasonable there.

15 Q Do you know if any efforts have been made by
16 Bott Communications to sell, assign or convey its permit
17 for a new FM station in Goodland?

18 A I'm sorry. I didn't understand the question.
19 I think the answer is no, but I didn't understand the
20 question.

21 Q Let me ask it again so you do understand. Do
22 you know if any attempt or effort has been made by Bott
23 Communications Inc. or agent thereof to sell or convey,
24 transfer the permit they hold for the new FM station in
25 Goodland, Kansas?

1 A No.

2 Q Which of the Bott stations, and I'm using Bott
3 Broadcasting and Bott Communications, receive
4 programming by satellite?

5 A They all receive a limited amount of
6 programming by satellite.

7 Q They have receive dishes on premise somewhere?

8 A Yes.

9 Q How many programming sources do they receive
10 from?

11 A Satellite?

12 Q Yes.

13 A They receive this talk show which we talked
14 about extensively. They also receive their news service
15 via satellite. Two talk shows. There's one on the week
16 end also that's on satellite. I think that's the extent
17 of them.

18 Q Do each of the Bott stations, and again I use
19 an umbrella term for Bott Broadcasting and Bott
20 Communications, receive the same programming, that is
21 the two talk shows and the news service?

22 A Yes, they do. Those particular ones. There
23 is some programming similarity. It's not identical but
24 those particular shows they all get.

25 Q You would consider contracting for these same

1 shows at your Blackfoot facility should you receive it?

2 A Should it be compatible with the format that I
3 choose. Like I say I've not chosen the exact format and
4 that would be one thing that I would certainly consider.

5 Q Do any of the Bott stations have an uplink
6 capacity?

7 A No.

8 Q Is Bott Communications or Bott Broadcasting
9 considering the installation of an uplink facility?

10 A No, they're not considering. Let me clarify
11 something that you said because I'm not sure of the
12 question. Can you repeat that previous question about
13 an uplink facility?

14 Q Do any of the Bott stations have an uplink
15 capacity?

16 A No. Let me explain why I --

17 JUDGE LUTON: He didn't ask you to explain.

18 MR. MONAHAN: I will follow up, Your Honor.

19 BY MR. ALPERT:

20 Q Your response suggests that my question didn't
21 examine some possibility, some probability or some
22 ability that the Bott stations can uplink or access to a
23 satellite. Am I wrong in that assumption, Mr. Bott?

24 A I think I should probably just explain.

25 Q If you would please.

1 A The only reason I hesitate is because Bott
2 Broadcasting Company does lease space to the Royals
3 Baseball Network that has an uplink but that's not
4 available to us and we have no intention to use it. So
5 at the station there is an uplink that's not available
6 to us. That's the reason I wanted to hesitate and make
7 sure that was clear.

8 Q Thank you.

9 A Technically the stations do not have any
10 uplink capacity; however, at the station there is a
11 sports-oriented uplink facility on lease that's not
12 ours.

13 Q There's been quite a bit of testimony about
14 your father. How old is your father, Mr. Bott?

15 A I think he's 55 or 56.

16 Q He's been in the broadcast business for how
17 long?

18 A Since he was about 20. A long time.

19 Q If you know, will you succeed to your father's
20 interest in his stations?

21 A I don't know. Do you mean in the event of his
22 death?

23 Q Yes.

24 A I don't know.

25 MR. MONAHAN: That's all I have.

1 JUDGE LUTON: Redirect.

2 REDIRECT EXAMINATION

3 BY MR. FRIEDMAN:

4 Q Mr. Bott, just one question. Could you tell
5 me how the shares of the stock of Bott Broadcasting are
6 owned?

7 A Well, they're owned jointly by my mother and
8 father.

9 Q Do you know what the purpose of joint
10 ownership is, Mr. Bott?

11 A Actually no.

12 MR. FRIEDMAN: Okay then I'll withdraw the
13 question. I have no further redirect.

14 JUDGE LUTON: Recross.

15 MR. ALPERT: No recross.

16 JUDGE LUTON: Thank you, Mr. Bott. You may
17 step down.

18 (Whereupon, the witness was excused.)

19 JUDGE LUTON: We'll recess now for lunch and
20 come back and move to the case of Radio Representatives.
21 Let's take an hour for lunch and return at 1:15.

22 (Whereupon, the hearing was recessed at 12:16
23 p.m. to reconvene at 1:15 this same day.)
24
25

A-F-T-E-R-N-O-O-N C-E-S-S-I-O-N

1:17 p.m.

JUDGE LUTON: Good afternoon.

Whereupon,

SHERWOOD PATTERSON

was called as a witness by Counsel for Radio Representatives and having been first duly sworn, assumed the witness stand and was examined and testified as follows:

MR. ALPERT: Your Honor, I'm presenting you and the court reporter and both parties and executed copy of a three page document entitled Testimony of Sherwood H. Patterson, II, Exhibit Number 1. Again it consists of a three page document which includes a cover sheet, testimony and predominantly on the third page the biggest portion of the appropo testimony. I'd like to have that identified for the record please as Radio Representatives Inc. Exhibit Number 1.

JUDGE LUTON: It's so marked.

(Whereupon, the document was identified as Radio Representatives Inc. Exhibit Number 1 for identification.)

BY MR. ALPERT:

Q Mr. Patterson, have you reviewed the testimony